

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FINISAR CORPORATION,

Plaintiff,

Civil Action No.

11-cv-15625

vs.

PAUL D. BORMAN

CHEETAH OMNI, LLC,

UNITED STATES DISTRICT JUDGE

Defendant.

**ORDER (1) ADOPTING MAGISTRATE JUDGE'S AUGUST 2, 2013 REPORT AND
RECOMMENDATION (DKT. 136) AND (2) AWARDING PLAINTIFF REASONABLE
COSTS AND ATTORNEY FEES IN THE AMOUNT OF \$6,452.74**

Before the Court is Magistrate Judge Mona K. Majzoub's August 2, 2013 Report and Recommendation regarding Defendant Cheetah Omni, LLC's ("Defendant") Motion to Compel and awarding reasonable attorney fees to Plaintiff Finisar Corporation ("Plaintiff") pursuant to Fed. R. Civ. P. 37(a)(5)(B). (Dkt. 136).

Defendant's Motion to Compel challenged the sufficiency Plaintiff's responses to Interrogatory No. 1, certain requests for production, and also requested that Plaintiff be ordered to provide a privilege log. (Dkt. 109). On June 27, 2013, Magistrate Judge Majzoub entered an order denying Defendant's Motion to Compel and finding that Defendant failed to comply with E.D. Mich. L.R. 7.1(a). (Dkt. 126). Magistrate Judge Majzoub found that had Defendant properly conferred with Plaintiff regarding its Motion to Compel (as required under the local rule), the discovery issues would have been significantly narrowed with the exception of the issues regarding Defendant's Interrogatory No. 1. (*See* Dkt. 126, at 9-10). Further, Magistrate Judge Majzoub noted that (1) Defendant sought documents that it had never requested from Plaintiff, and (2) it filed its motion just 13 days after she had warned the parties that unnecessary

discovery disputes should be avoided. (Dkt. 126, at 9). As a result, Magistrate Judge Majzoub awarded Plaintiff “reasonable fees incurred in responding to Defendant’s motion with the exception of any time spent responding to Defendant’s Motion to Compel a Response to Interrogatory No. 1.” (Dkt. 126, at 9-10).

The current Report and Recommendation determines the reasonable amount of attorney fees and costs Plaintiff should be awarded by evaluating the Plaintiff’s bills, applying the “lodestar method” and also considering factors such as the (1) professional standing and experience of the attorney; (2) the skill, time and labor involved; (3) the amount in question and the results achieved; (4) the difficulty of the case; (5) the expenses incurred; and (6) the nature and length of the professional relationship with the client. *See Ellison v. Balinski*, 625 F.3d 953, 960 (6th Cir. 2010); *Miller v. Alldata Corp.*, 14 Fed. Appx. 457, 468 (6th Cir. 2001). After this analysis Magistrate Judge Majzoub recommends awarding total fees and costs to Plaintiff in the amount of \$6,452.74. The Court finds this amount to be correct and reasonable.

Therefore, having thoroughly reviewed the Report and Recommendation, and there being no timely objections from either party under 28 U.S.C. § 636(b)(1) and E.D. Mich L.R. 72.1(d), the Court:

- (1) **ADOPTS** the Magistrate Judge’s Report and Recommendation (Dkt. 136); and
- (2) **AWARDS** Plaintiff reasonable costs and attorney fees in the amount of \$6,452.74, payable by Defendant.

IT IS SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: January 10, 2014

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 10, 2014.

s/Deborah Tofil

Case Manager